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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,216	05/03/2006	Kevin R. Lynch	198P00944USWO	7580
23322	7590	01/15/2008		
IPLM GROUP, P.A. POST OFFICE BOX 18455 MINNEAPOLIS, MN 55418			EXAMINER YOUNG, SHAWQUILA	
			ART UNIT 1626	PAPER NUMBER
			MAIL DATE 01/15/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/578,216	Applicant(s) LYNCH ET AL.	
	Examiner Shawquia Young	Art Unit 1626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-16, 18, 22-33, 35 and 50-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-16, 18, 22-33, 35 and 50-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :10/6/06, 11/30/07, 12/3/07 and 12/5/07.

DETAILED ACTION

Claims 11-16, 18, 22-33, 35 and 50-55 are currently pending in the instant application. Applicants have cancelled claims 1-10, 17, 19, 20, 21, 34 and 36-49 and added new claims 50-55 in amendment filed on November 30, 2007.

I. *Priority*

The instant application is a 371 of PCT/US04/36563, filed on November 3, 2004 and claims benefit of US Provisional Application 60/516,887, filed on November 3, 2003.

II. *Information Disclosure Statement*

The information disclosure statements (IDS) submitted on October 6, 2006, November 30, 2007, December 3, 2007 and December 5, 2007 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements have been considered by the examiner.

III. *Restriction/Election*

A. Election: Applicant's Response

Applicants' election without traverse of Group I in the reply filed on November 30, 2007 is acknowledged.

Subject matter not encompassed by elected Group I are withdrawn from further consideration pursuant to 37 CFR 1.142 (b), as being drawn to nonelected inventions.

IV. Rejections

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11-16, 18, 22-33, 35 and 50-55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the phrase "having the formula" or "has the formula" renders the products indefinite as the phrase "having the formula" or "has the formula" can be considered open-ended language when not clearly defined and therefore is including additional subject matter in the compounds of the formula represented in the instant claims that is not described in the instant specification and is not particularly pointed out or distinctly claimed. A claim to a chemical compound cannot be open-ended, but must be claimed with precision. This rejection can be overcome by amending the phrase "having the formula" or "has the formula" to read "of the formula" in claims 11-16, 18, 22-33, 35 and 50-55.

V. Objections

Claim Objection-Non Elected Subject Matter

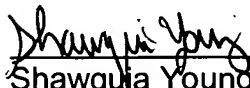
Claims 11-16, 18, 22-33, 35 and 50-55 are objected to as containing non-elected subject matter. To overcome this objection, Applicant should submit an amendment deleting the non-elected subject matter.

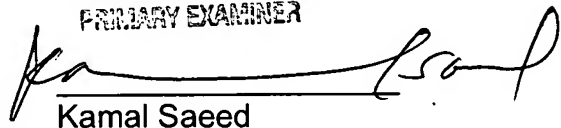
VI. Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawquia Young whose telephone number is 571-272-9043. The examiner can normally be reached on 6:30 AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph M^cKane can be reached on 571-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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